IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4068 OF 2005

Kirit Ramdas Kapadia ... Petitioner

V/s.

Noor Alam Muna Anzari & Ors. ... Respondents

a/w

WRIT PETITION NO.4069 OF 2005

Kirit Ramdas Kapadia ... Petitioner

V/s.

Shri Niyamat Ali Mohd.
Yousuf Mansoori ... Respondents

Mr.C.U. singh with Mahesh Londhe i/b Sanjay Udeshi & co. for Petitioner
Mr.Rajeshwar i/b Lega Apex for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 7, 2005**

P.C.:

. These Petitions are filed against the order of the Labour Court rejecting the applications filed by the employer for restoration of the applications filed by the workmen under section 33-C(2) of the Industrial Disputes Act. The Petitioner in both the Petitions is

the same. However, the Respondents are different sets of workmen in both the Petitions. The Labour Court has found after recording evidence that the Petitioner had been served with the copy of the proceedings and that in fact the bailiff's report shows that the Petitioner had refused to accept the notice tendered on 30.9.2000. A registered notice sent by the advocate for the workman was also refused. According to the Petitioner, the establishment was being conducted by some other person and, therefore, he was not aware of the proceedings before the Labour Court.

2. Although the Labour Court has correctly appreciated the findings and was well within its jurisdiction to reject the applications made by the Petitioner, with a view that no injustice should be done to the Petitioner, the original applications are

required to be restored to file. However, they will be restored on fulfilment of certain terms and conditions. The Petitioner has already deposited 10% of the decretal sum which amounts to 2,10,000/- in the Labour Court. In my view, interests of justice would be served if the employer is directed to deposit another sum of Rs.5 lacs in the labour Court towards the total decretal amount of approximately Rs.21 lakhs. Accordingly the following order is passed:

i) The impugned order dated 6.4.2005 passed in Miscellaneous application Nos.50 of 2003 and 51 of 2003 and the order dated 18.3.2002 in application (IDA) Nos.232 of 2000 and 233 of 2000 are set aside on condition that the Petitioner deposits in the Labour Court an amount of Rs.5

lacs within eight weeks from today.

ii) The amount so deposited and the amount already deposited in the Labour Court shall be invested in a nationalised bank initially for a period of six months, to be renewed thereafter.

iii) The Labour court shall hear and decide the applications within six months from today.

iv) The parties are expected to co-operate so that the applications are disposed within the stipulated time.

3. Writ Petitions are accordingly disposed off in the aforesaid terms.